Del. Co. Aud.

DELAWARE COUNTY IOWA
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PAGE 3618
DEBORAH L. FERTIG
DELAWARE COUNTY RECORDER
N/C

THIS DOCUMENT WAS PREPARED BY MARK NAHRA, DELAWARE COUNTY ENGINEER'S OFFICE, 2139 HIGHWAY 38., DELAWARE, IA 52036, 563-927-3505

MAINTENANCE OF FARM TO MARKET ROAD EXTENSIONS

THIS AGREEMENT is made and entered into by and between the city of Colesburg, Iowa, herein after called CITY, and Delaware County, Iowa, herein after called COUNTY, in accordance with the provisions of Chapter 28E, 2003 Code of Iowa. The purpose of this AGREEMENT shall be to define the duties and responsibilities of the CITY and the COUNTY on farm to market road extensions lying wholly within the corporate limits of the CITY but under the ownership of the COUNTY. This AGREEMENT is developed in regard to all maintenance and construction work on these routes.

BACKGROUND:
During the 2003 legislative session, SF451 was passed and signed by the governor. This bill transferred jurisdiction of farm to market extensions within towns with populations under 500 to counties effective July 1, 2004. The bill transferred to the county all rights and responsibility for the roads and rights of way within the towns. The bill also transferred a share of the CITY's road use tax fund distribution to the COUNTY to assist in paying the costs of future maintenance and construction work on the farm to market extensions. This AGREEMENT will define the responsibilities of the CITY and COUNTY in implementing the terms of SF451.

AGREEMENT:
The CITY has requested that the COUNTY transfer maintenance and construction responsibility for the farm to market extensions within the corporate limits to the CITY. The COUNTY is also asked to reimburse the CITY the deficient road use tax fund distribution transferred by the State of Iowa to the COUNTY under the provisions of the bill. The CITY and COUNTY will administer the provisions of SF451 as agreed to herein:

1) The Farm to Market Road Extensions to be included within the scope of this AGREEMENT shall be shown on a map which shall be attached to and become a part of this AGREEMENT. Farm to market extension roads are defined in sections 306.4, 306.5, 306.6, 306.6A, and 306.8 of the Code of Iowa and Chapter 101 of the Iowa Administrative Code. Farm to market roads and farm to market extensions are established by the COUNTY Board of Supervisors with the approval of the State Farm to Market Review Board.

2) This AGREEMENT applies to all construction and maintenance

on the farm to market extension roads. Maintenance work includes, but is not limited to snow removal, pavement patching, replacing of drainage structures, maintaining and cleaning of ditches, providing pavement crack sealing, installing and maintaining signing, and placing pavement markings on secondary road extensions. Construction work is defined in the Code of Iowa and the Iowa Administrative Code for counties and includes grading or regrading the road, HMA or PCC resurfacing and/or repaving, and bridge or large culvert replacement.

3) The CITY has requested that the COUNTY return construction and maintenance responsibilities for farm to market extensions with in the corporate limits to the CITY. In acknowledgement of the CITY taking responsibility for construction and maintenance work within its corporate limits, the COUNTY will reimburse the CITY that portion of the road use tax fund distribution received by the COUNTY on behalf of the CITY on a quarterly basis. This reimbursement will be based on actual receipts, not on the annual estimate of funds for budget purposes. The reimbursement will be paid at the end of each quarter with fiscal year payments being made during the COUNTY's normal claim payment cycle in the months of October, January, April, and July.

The CITY shall account for the use of the transferred funds and accounting shall be given to the county annually of how the reimbursed funds are spent on the farm to market extensions maintained by the CITY. If all funds allocated for maintenance and construction on the farm to market extension that are returned to the CITY are not used for maintenance and construction on those farm to market extension roads, the CITY will account for that money and dedicate future credits equivalent to the unused funds on those routes to meet future construction and maintenance needs. The CITY shall earmark a minimum of 40% of the funds returned by the county for future construction needs on the farm to market extensions covered under this agreement to assure adequate funding for improvements in coordination with the COUNTY programmed construction/reconstruction work on the farm to market roads outside the corporate limits.

The CITY understands and acknowledges that the COUNTY will not provide funding for construction or reconstruction within the corporate limits of the CITY from its farm to market fund or local secondary road fund since the CITY has chosen to maintain these farm to market extensions on their own. The CITY shall levy special assessments or provide other funding for work that does not qualify for the use of road use tax funds and shall use road use tax fund money transferred from the COUNTY only for those expenditures allowed by the Code of Iowa, section 331.429(2).

4) For the purpose of this AGREEMENT, the term traveled way or traveled portion refers to the center twenty four feet (24') of the

roadway where vehicular traffic operates plus the normal shoulder width for the roadway's functional classification. The shoulder width is as determined by the IDOT/ICEA Design Guides for Farm to Market Roads. The CITY shall, under the terms of Section 28E.3 and 28E.4 of the Code of Iowa, join the COUNTY in the establishment of ordinances and/or in the assessment of special levies against property adjacent to the COUNTY farm to market extension right of way for the purpose of recovering the cost of sidewalk, curb and gutter, and other construction beyond improvements to the traveled portion of the COUNTY highways per the normal policy of the CITY. If the CITY does not levy said improvements outside of the traveled way against adjacent property, the CITY shall pay all expenses for construction improvements beyond the traveled way within the COUNTY right of way.

5) All snow removal done by the CITY on farm to market extension routes will meet or exceed compliance with Delaware County Ordinance No.3, "An Ordinance to Establish the Policy and Level of Service in Respect to Clearance of Snow and Ice and Maintenance of This County's Roads During the Winter Months". Snow removal by CITY personnel within CITY limits will be done either before or concurrently with snow removal by COUNTY staff on COUNTY portions of farm to market roads covered in this agreement so as not to result in discontinuity of road conditions on farm to market extensions leading into and out of town. The CITY agrees to hold the COUNTY harmless from any and all claims arising from snow removal within the corporate limits of the CITY done by or under the direction of CITY staff.

6) The CITY will be responsible for reacting to all emergency needs including snow removal, signing, and other emergency response within their corporate limits on the roads within this AGREEMENT. The COUNTY will not disrupt its normal sequence of operations to respond to emergencies, snow removal or otherwise, within the CITY's corporate limits on farm to market extensions. The CITY will adopt and follow COUNTY policies for sign replacement and other maintenance activities on the farm to market extension routes.

7) The CITY shall not establish stop or yield signs on the farm to market extensions without approval of the County Board of Supervisors. The CITY shall be responsible for the legal establishment, installation, and maintenance of other traffic control devices and signs located on farm to market road extensions subject to final approval and authorization by the COUNTY. Such devices and signs shall comply with the current "Manual on Uniform Traffic Control Devices" (MUTCD) as adopted by the Iowa Department of Transportation per 321.252 of the Code of Iowa. After July 1, 2004, the County Engineer is directed to review all signing on farm to market extensions within the CITY and bring all signing into compliance with the current manual. The cost of bringing all signing into compliance with the manual will be deducted from the funds received from the road use tax fund distribution paid to the COUNTY

on behalf of the CITY. Upon completion of the review and update of signs and traffic control devices within the CITY, the CITY shall maintain said signs and traffic control devices in compliance with COUNTY policies and procedures and the MUTCD. If the CITY does not maintain signs in compliance with COUNTY policies and procedures and the MUTCD, the County Engineer may, at his/her discretion, make repairs and updates as needed to maintain signs and traffic control devices on these routes and deduct the cost of doing so from the subsequent quarterly distribution of funds to the CITY.

8) The CITY and COUNTY further agree that the CITY will:

A. Prevent erection or encroachment of any private signs within or overhanging the right of way that could obstruct the view of any traffic control devices or any portion of the roadway as per Section 319.10 of the Code of Iowa.

B. Comply with all current statutes and regulations pertaining to over length and over weight vehicles using the County roads.

Not included in this AGREEMENT are loading and hauling of snow, sprinkling or sweeping of streets and gutters, maintenance or repair of any sewers or sub-surface utilities, control of growth of vegetation and trees, and any sidewalk or walkway maintenance. Said work will be done by the CITY and the CITY shall levy funds necessary to accomplish all work within COUNTY right of way on farm to market extension roads which is not eligible for the expenditure of road use tax funds.

9) The CITY shall coordinate with the COUNTY on maintenance and construction work on farm to market extension roads within the corporate limits of the CITY. The CITY shall adopt the COUNTY's maintenance schedule to allow for efficient and cost effective improvements to the farm to market extensions. The County Engineer shall provide the CITY with estimates of work anticipated, with budget amounts, before December 1 of each year after the adoption of this agreement for work to be performed in the following fiscal year.

The County Engineer shall notify the CITY a minimum of three (3) years in advance of planned construction on the farm to market roads extending into the CITY. The CITY shall budget any unused portions of its reimbursed road use tax funds, plus additional funds as needed, to pay for construction on the extension of the COUNTY farm to market route to the same standard as the rural portion of the road within the corporate limits.

10) Upon written notice from the County Engineer, the CITY shall enforce county standards, policies, and ordinances and state code requirements related to farm to market roads including, but not limited to: removal of fences and other obstructions within the right of way, sight distance requirements for new driveway locations, and permit requirements for work within the right of way and utility

access.

11) Sidewalks, storm and sanitary sewers, waterlines, and other utilities owned by the CITY are to be treated as utilities as defined in section 319.14. The CITY shall obtain a permit from the County Board of Supervisors for the installation and/or maintenance of CITY owned utilities within the COUNTY right of way on farm to market extension routes. For street and utility emergencies, the CITY need only obtain verbal permit from the County Engineer or his/her designee and said verbal permit shall be valid. The County Engineer or his/her designee are available on call 24 hours per day and can be reached through the E911 dispatcher. This verbal permit is only for emergency work and planned maintenance must still obtain a permit from the County Board of Supervisors.

The CITY shall direct private utility owners to the COUNTY for permit approvals for any installations of utilities in farm to market extension rights of way. All utility work done by the CITY or private utilities shall be done in compliance with COUNTY standards.

12) The CITY shall indemnify and hold harmless the COUNTY, the COUNTY Secondary Road Department, its officers, employees and assigns from any and all claims, demand or action by or on behalf of any person or entity arising out of or related to the CITY's construction and maintenance on farm to market extension routes maintained by the CITY. The CITY shall list the COUNTY as an additional named insured on their liability policy and shall defend the COUNTY from claims related to the CITY's administration of this AGREEMENT.

13) This AGREEMENT is for a trial period of two years only to determine whether the CITY can do a satisfactory job of maintaining COUNTY road right of way within corporate limits. At its option, the COUNTY may cancel this AGREEMENT at any time and take over maintenance on the farm to market extensions.

14) The County Engineer and City Clerk shall be the administrators of this AGREEMENT as provided in Section 28E.6 of the Code of Iowa. In doing so, they will consult with the Board of Supervisors and the City Mayor on matters related to this AGREEMENT.

15) This agreement shall not prohibit the CITY from employing a private contractor to perform work associated with this AGREEMENT. Nothing in this AGREEMENT shall be construed as to prohibit either party from hiring a third party to perform any work associated with this AGREEMENT.

16) If any section, provision, or part of this AGREEMENT shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the AGREEMENT as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

17) This agreement is effective upon filing and recording as required by law.

SIGNED THIS 6 day of July, 2004.

Delaware County, Iowa

BOARD OF SUPERVISORS

Steven L. Koeneke Chairman

Shirley E. Helmrichs Member

Bill Skinner Member

Attest: Sharon McCrabb County Auditor

SIGNED THIS 3 day of May, 2004.

Colesburg, Iowa

CITY COUNCIL

Richard Sampson Mayor

Brent Kane Member

Roger Waterman Member

Fred C. Bush Member

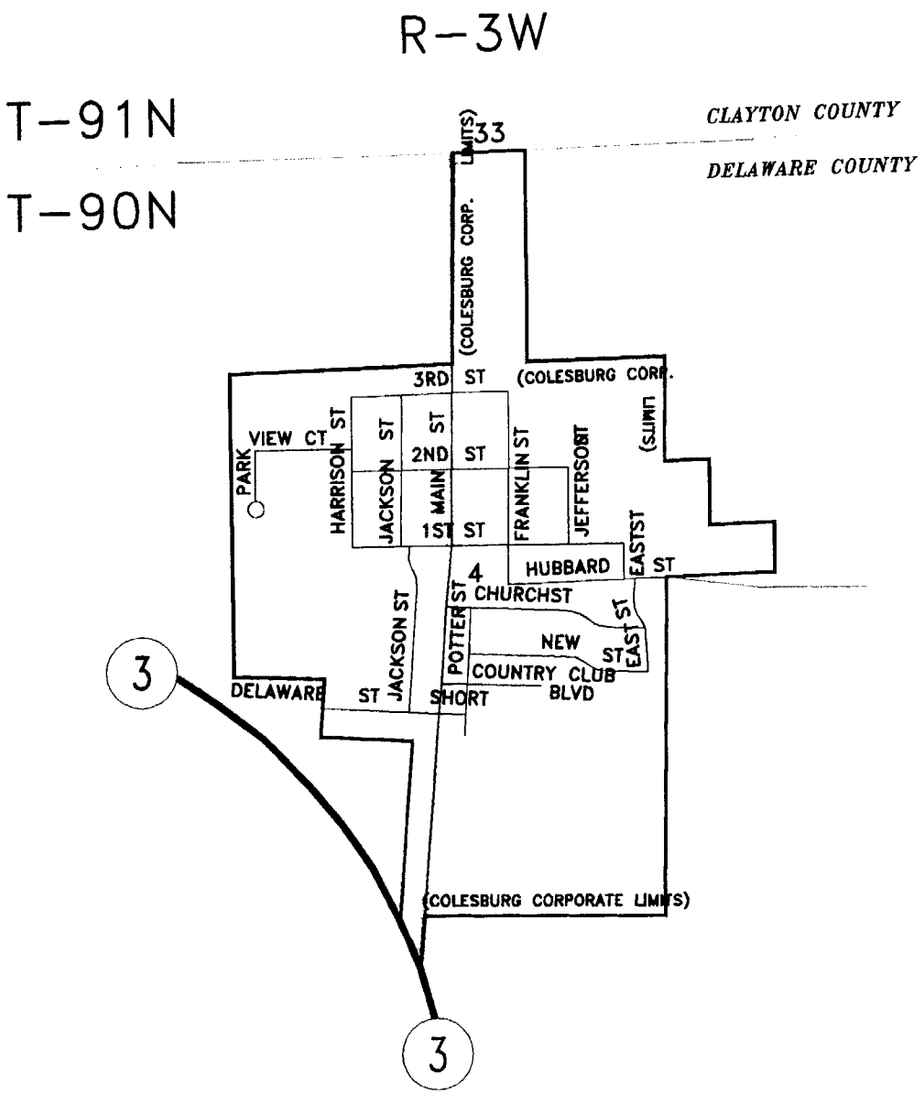
Allen M. Wessel Member

[illegible] Member

Attest: Tabitha Kliner City Clerk

Filed with the Delaware County, Iowa Recorder
this _____ day of _____, 2004.
Book ____ Page ____
By _____
Title _____

Filed with the Secretary of the State of Iowa
this _____ day of _____, 2004.
By _____
Title _____



FM Extensions

On this 2nd day of August, 2004, before me Janice Klaus a notary public in and for the State of Iowa appeared Richard Sampson, Mayor; Jamie Amling, Fred Bush, Evert Klaus, Roger Waterman, and Julie Wessel, Council Members, and Tabatha Rhines, to me personally known, and who, being by me duly sworn, did say that they are the Mayor of the City of Colesburg, members of the City Council, and City Clerk, respectively, of the City of Colesburg in the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the official seal of the city (if applicable), and that the instrument was signed and sealed on behalf of the city, by authority of its City Council, as contained in the City Minute Book, as passed by the City Council on the 2nd day of August, 2004 and, Richard Sampson, Jamie Amling, Fred Bush, Evert Klaus, Roger Waterman, Julie Wessel, and Tabatha Rhines acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the city, by it voluntarily executed.

Janice Klaus
Notary Public
My Commission Expires: 08/31/07

Seal:

JANICE KLAUS
Notarial Seal - Iowa
Commission # 192156
My Commission Expires 08/31/07

CORPORATE SEAL
I·C·M·A
OF COLESBURG, IA

On this 6th day of July, 2004, before me Mark J. Nahra a notary public in and for the State of Iowa appeared Steven Koeneke, chair, William Skinner and Shirley E. Helmrichs, members, and Sharon McCrabb, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the County Board of Supervisors, members of the County Board of Supervisors, and County Auditor, respectively, of the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the county seal of the county, and that the instrument was signed and sealed on behalf of the county, by authority of its Board of Supervisors, as contained in the Supervisors Minute Book X, as passed by the Board of Supervisors on the 6th day of July, 2004 and, Steve Koeneke, William Skinner, Shirley E. Helmrichs and Sharon McCrabb acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the county, by it voluntarily executed.

Mark J. Nahra
Notary Public
My Commission Expires: July 2, 2007

Seal:

